

Department of the Navy, DoD

§ 767.7

of or in coordination with the NHHHC as recognized through express written permission by the NHHHC Director, or his/her designee, need not follow the permit application procedures set forth in this section and §§ 767.7 and 767.9 to 767.12 if those duties or activities are associated with the management of sunken military craft or terrestrial military craft. Where appropriate, such persons will coordinate with Federal Land Managers, the Bureau of Ocean Energy Management, State Historic Preservation Offices, or state land or resource managers, as applicable, prior to engaging in the aforementioned activities. The NHHHC Director, or his/her designee, shall ensure that the provisions of paragraph (d) of this section and §§ 767.8 and 767.11 have been met by other documented means and that such documents and all resulting data will be archived within the NHHHC.

(g) Federal agencies carrying out activities that disturb, remove, or injure sunken military craft or terrestrial military craft need not follow the permit application procedures set forth in this section and §§ 767.7 and 767.9 to 767.12 if those activities are associated with the management of sunken military craft or terrestrial military craft within their areas of responsibility. Where appropriate, Federal agencies will coordinate with the NHHHC prior to engaging in the aforementioned activities.

§ 767.7 Evaluation of permit application.

(a) Permit applications are reviewed for completeness, compliance with program policies, and adherence to the regulations of this subpart. Incomplete applications will be returned to the applicant for clarification. Complete applications are reviewed by NHHHC personnel who, when appropriate, may seek outside guidance or peer reviews. In addition to the criteria set forth in §§ 767.6(d) and 767.8, applications are also judged on the basis of: Project objectives being consistent with DON policy and the near- and long-term interests of the DON; relevance or importance of the proposed project; archaeological, historical, or educational purposes achieved; appropriateness and environmental consequences of technical

approach; conservation and long-term management plan; qualifications of the applicants relative to the type and scope of the work proposed; and funding to carry out proposed activities. The NHHHC will also take into consideration the historic, cultural, or other concerns of a foreign state when considering an application to disturb a foreign sunken military craft of that state located within U.S. waters, subsequent to an understanding or agreement with the foreign state in accordance with § 767.15. The same consideration may be applied to U.S. sunken military craft that are brought under the jurisdiction of the DON for permitting purposes following an agreement with the Secretary of any military department, or in the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating, as set forth in § 767.15(e).

(b) Prior to issuing a permit, the NHHHC will consult with the appropriate federal resource manager when it receives applications for research at wrecksites located in areas that include units of the National Park System, National Wildlife Refuge System, National Marine Sanctuary System, Marine National Monuments, within lease blocks managed by the Bureau of Ocean Energy Management, or within areas of responsibility of other Federal Land Managers.

(c) Prior to issuing a permit, the NHHHC will consult with the appropriate SHPO, state land or resource manager or Tribal Historic Preservation Office (THPO) when it receives applications for research at wrecksites located on state lands, including lands beneath navigable waters as defined in the Submerged Lands Act, 43 U.S.C. 1301–1315, or tribal lands.

(d) The applicant is responsible for obtaining any and all additional permits or authorizations, such as but not limited to those issued by another federal or state agency, or foreign government. In the case of U.S. sunken military craft or terrestrial military craft located within foreign jurisdictions, the NHHHC may review and issue a conditional permit authorizing activities upon receipt of the appropriate permits and authorizations of the applicable foreign government by the applicant.

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The applicant must file a copy of the foreign government authorization with the NHHHC when submitting the preliminary report stipulated in § 767.9(d) and final report stipulated in § 767.9(f). Failure to do so will be considered a permit violation.

(e) Based on the findings of the NHHHC evaluation, NHHHC personnel will recommend an appropriate action to the NHHHC Deputy Director. If approved, the NHHHC Deputy Director, or his or her designee, will issue the permit; if denied, applicants are notified of the reason for denial and may request reconsideration within 30 days of receipt of the denial. Requests for reconsideration must be submitted in writing to: Director of Naval History, Naval History and Heritage Command, 805 Kidder Breese St. SE., Washington Navy Yard, Washington, DC 20374-5060.

§ 767.8 Credentials of principal investigator.

The principal investigator shall be suitably qualified as evidenced by training, education, and/or experience, and possess demonstrable competence in archaeological theory and method, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed. A resume or curriculum vitae detailing the professional qualifications of the principal investigator must be submitted with the permit application. Additionally, the principal investigator will be required to attest that all persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the proposed activity. The principal investigator must, at a minimum, meet the following requirements:

(a) The minimum professional qualification standards for archaeology as determined by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

(b) At least one year of full-time professional supervisory experience in the archaeological study of historic maritime resources or historic aviation resources. This experience requirement may concurrently account for certain stipulations of paragraph (a) of this section.

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(c) The demonstrated ability to plan, equip, fund, staff, organize, and supervise the type and scope of activity proposed.

(d) If applicable, the demonstrated ability to submit post-operational archaeological or other technical reports in a timely manner.

§ 767.9 Conditions of permits.

(a) Permits are valid for one year from the date of issue.

(b) Upon receipt of a permit, permit holders shall counter-sign the permit and return copies to the NHHHC and the appropriate SHPO, state land or resource manager, THPO, or foreign government official, if applicable, prior to conducting permitted activities on the wrecksite. When the sunken military craft or terrestrial military craft is located within federal areas such as a unit of the National Park System, the National Wildlife Refuge System, the National Marine Sanctuary System, or Marine National Monuments, the permit holder shall provide copies of countersigned permits to the applicable federal resource manager. Upon the NHHHC confirming receipt of the counter-signed permit, the permitted activities may commence, provided that any other federal or state regulatory and permitting requirements that apply are met.

(c) Permits shall be carried on-site and made available upon request for inspection by federal or state law enforcement officials. Permits are non-transferable. The permit holder, or the activity's authorized principal investigator in the case where a permit holder is not concurrently the authorized principal investigator, is expected to remain on-site for the duration of operations prescribed in the permit. In the event a permit holder or the authorized principal investigator is unable to directly oversee operations, the permit holder must nominate a suitable qualified representative who may only serve in that function upon written approval by the NHHHC.

(d) Permit holders must abide by all provisions set forth in the permit as well as applicable state or federal regulations. Permit holders must abide by applicable regulations of a foreign government for activities directed at a